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Nada Milosavljevic

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EXAMINER

RAPILLO, KRISTINE K

ART UNIT

PAPER NUMBER

3626

MAIL DATE

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PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/675,128	<b>Applicant(s)</b> MILOSAVLJEVIC, NADA	
	<b>Examiner</b> KRISTINE K. RAPILLO	<b>Art Unit</b> 3626	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 01 September 2009.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-31 is/are pending in the application.
- 4a) Of the above claim(s) 2-6,8-21,23,26 and 27 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1, 7, 22, 24- 25, 28 - 31 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 30 September 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)            | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | Paper No(s)/Mail Date. _____                                      |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>9/30/2003</u> .   | 6) <input type="checkbox"/> Other: _____                          |

## **DETAILED ACTION**

### ***Notice to Applicant***

1. This communication is in response to the amendment submitted September 1, 2009. Claims 1, 7, 22, and 24 – 25 have been amended. Claims 2, 4 – 6, 8 – 21, and 27 are cancelled (claims 3, 23, and 26 were previously cancelled). Claims 28 – 31 are new. Claims 1, 7, 22, 24 – 25, and 28 - 31 are presented for examination.

### ***Continued Examination Under 37 CFR 1.114***

2. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on September 1, 2009 has been entered.

### ***Claim Rejections - 35 USC § 112***

3. The second paragraph of 35 U.S.C. 112 rejections of claims 1, 8, 24, and 25 are hereby withdrawn based upon the amendment submitted September 1, 2009.

### ***Claim Rejections - 35 USC § 101***

4. The 35 U.S.C. 101 rejections of claims 1 – 27 are hereby withdrawn based upon the amendment submitted September 1, 2009.

### ***Claim Rejections - 35 USC § 103***

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 1 – 2, 4 – 22, and 25 - 27 are rejected under 35 U.S.C. 103(a) as being unpatentable over Campbell, herein after Campbell (U.S. Patent Number 6,047,259) in view of Iliff (U.S. Patent. No. 6,468,210).

With regard to claim 1 (Currently amended), Campbell teaches a computer-based, interactive method for facilitating the evaluation, diagnosis and treatment of a patient suspected of having a medical disorder (column 2, lines 2 – 4), comprising:

conducting a preliminary physical examination of the patient (column 7, lines 31 – 41) and making a preliminary diagnosis based on the preliminary physical examination that patient has a particular medical disorder (column 5, lines 48 – 51 and column 12, lines 48 – 55) where Campbell discloses a rule out list and tentative diagnosis;

entering into the computer system information identifying the particular medical disorder (column 4, lines 56 – 60) where a user can enter information through a keyboard and other input devices;

outputting from the computer system information about the particular medical disorder (column 3, lines 44 – 47 and column 13, lines 58 – 65) and information identifying other medical disorders that might be confused with the medical disorder (Figure 9; column 7, lines 42 – 48; and column 16, line 66 through column 17, line 22) where a rule out list is displayed (the rule out list consists of medical disorders with the same or similar signs or symptoms);

prompting the user to further examine said patient for one or more predefined signs or symptoms that might be exhibited by one afflicted with the particular medical disorder (Figure 9; column 16, line 33 through column 17, line 37);

prompting the user to conduct a work up of said patient, the work up comprising one or more predefined elements based on the information identifying the particular medical disorder (Figure 10 and column 17, lines 45 – 52) where recommended therapies are displayed based on the medical disorder selected;

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prompting the user to recommend a treatment plan for the patient (column 7, lines 42 – 56 where a treatment protocol is recommended based on tentative diagnoses), the treatment plan comprising one or more predefined elements based on the information identifying the particular medical disorder (column 17, lines 53 - 60);

entering into the computer system information identifying those of the one or more predefined treatment plan elements recommended for the patient (column 2, lines 4 – 31).

entering into the computer system data identifying the patient (column 7, lines 18 – 28); and simultaneously displaying on a display of the computer system the information about the particular medical disorder, the signs or. symptoms exhibited by the patient, and the patient (column 11, lines 11 – 29 and column 11, lines 46 – 49) where the patient information, the signs and/or symptoms (i.e. observations), and medical disorders are displayed simultaneously;

wherein the steps of conducting a preliminary physical examination, making a preliminary diagnosis, and entering information identifying the particular medical disorder are performed before the step of outputting (column 7, lines 31 – 41; column 5, lines 48 – 51; and column 12, lines 48 – 55);

Iliff teaches a method comprising: entering into the computer system information identifying those of the one or more predefined signs or symptoms exhibited by the patient (Figures 31, 32a, and 34; column 8, lines 5 – 19 where medical disorders are further defined by more specific symptoms); prompting the user to conduct a differential diagnosis of the patient based on the information identifying other medical disorders that might be confused with the particular medical disorder (column 6, lines 11 – 23; column 49, lines 55 – 65; and column 51, lines 2 – 15 where a differential diagnosis is performed to further identify the medical disorder of the patient); and, entering into the computer system information identifying those of the one or more predefined work up elements conducted on the patient (column 5, lines 10 – 21; column 9, lines 22 - 38; and column 10, lines 35 – 43 where laboratory tests and images (i.e. x-rays) can be performed to further assist in the diagnosis of a medical disorder);

Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to include a method comprising: prompting the user to further examine said patient for one or more predefined signs or symptoms that might be exhibited by one afflicted with the particular

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medical disorder; entering into the computer system information identifying those of the one or more predefined signs or symptoms exhibited by the patient; prompting the user to conduct a differential diagnosis of the patient based on the information identifying other medical disorders that might be confused with the particular medical disorder; entering into the computer system information identifying those of the one or more predefined work up elements conducted on the patient; the treatment plan comprising one or more predefined elements based on the information identifying the particular medical disorder; and, entering into the computer system information identifying those of the one or more predefined treatment plan elements recommended for the patient as taught by Iliff, within the method of Campbell, with the motivation of providing a tool for a computerized medical diagnosis based on the signs and symptoms provided by or exhibited by a patient (column 1, line 66 through column 2, line 36).

With regard to claim 7 (Currently amended), Campbell and Iliff teach the method of claim 1.

Iliff teaches a method further comprising transmitting the information about the particular medical disorder, the predefined signs or symptoms exhibited by the patient and the patient data to another user or to the patient's medical record (column 5, lines 35 – 43).

The motivation to combine the teachings of Campbell and Iliff is discussed in the rejection of claim 1, and incorporated herein.

With regard to claim 28 (New), Campbell and Iliff teach the method of claim 1. Campbell teaches a method wherein said steps of prompting are performed by said computer system (column 7, lines 31 – 56).

7. Claims 1 – 2, 4 – 22, and 25 - 27 are rejected under 35 U.S.C. 103(a) as being unpatentable over Campbell, herein after Campbell (U.S. Patent Number 6,047,259) in view of Dahlin et al., herein after Dahlin (U.S. Pub. No. 2004/0078215 A1) further in view of Chin et al., hereinafter Chin (U.S. Patent Number 6,632,042).

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With regard to claim 22 (Currently amended), Campbell teaches an apparatus for use in connection with providing health care to a patient suspected of having a medical disorder, comprising:

information prompting the user to examine the patient for one or more predefined signs and/or symptoms associated with the respective medical disorder (Figure 9 and column 2, lines 4 – 31) where prompts or reminders are displayed to guide a user through a medical exam to aid in selection of a tentative diagnosis;

information prompting the user to recommend one or more predefined treatments that could be administered to treat the respective medical disorder (column 17, lines 46 – 55) where a treatment protocol is recommended to treat a tentative diagnosis;

at least one field for entry of patient data (Figure 4 and column 12, lines 13 – 18);

the user's observation that the patient exhibits one or more of the predefined signs and/or symptoms associated with the respective medical disorder (Figure 9; column 2, lines 4 – 31) where a user makes observations based on the examination and compares to predetermined observations;

the user's opinion that one or more of the predefined tests should be conducted to confirm that the patient is afflicted by the respective medical disorder (column 18, line 61 through column 19, line 52) where a therapy (treatment) screen is displayed which indicates products (i.e. medications) and services (interpreted as laboratory work or radiological images) to be performed; and

the user's opinion that one or more of the predefined treatments should be administered to treat the patient (column 18, line 61 through column 19, line 52) where a user can select a particular therapy to treat a patient.

Dahlin teaches an apparatus comprising:

a set of pre-printed templates (Figures 3 – 19), each of the templates directed to a respective medical disorder (paragraphs [0119] and [0124]), each of the templates provided with:

information prompting the user to conduct one or more predefined tests that could be used to determine the presence or severity of the respective medical disorder (paragraphs [0020], and [0093]);

wherein each of said templates is adapted for annotation by a user to indicate (paragraph [0105]);

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wherein at least one of the templates is directed to a medical disorder other than the medical disorder the patient is suspected of having (paragraphs [0118] and [0119]).

Chin teaches an apparatus wherein each of said template (as taught by Dahlin; paragraph [0124] above) is printed on paper encased within transparent plastic (Chin: column 3, lines 24 – 28).

Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to include an apparatus wherein each of said template is printed on paper encased within transparent plastic as taught by Chin, within the apparatus of Campbell and Dahlin, with the motivation of providing a sheet protector to enhance the functionality of a template by enabling a user to directly annotate of the protective cover (column 4, lines 57 – 63 and column 5, lines 8 – 13). Campbell and Dahlin disclose allowing a user to make annotations on a computerized template, whereas the invention of Chin allows a user to annotate on a transparent cover to prevent errors on the original protected sheet.

In regard to claim 24 (Currently Amended), Campbell, Dahlin, and Chin teach the apparatus of claim 22.

Chin teaches an apparatus wherein one of the templates can be removed from the set of templates without damaging the remaining templates (column 8, lines 8 – 14 and column 10, lines 51 – 56) where the templates enclosed in transparent plastic can be assembled in a 3 ring binder or other binding system.

The motivation to combine the teachings of Campbell, Dahlin, and Chin is discussed in the rejection of claim 22, and incorporated herein.

With regard to claim 25 (Currently amended), Campbell, Dahlin, and Chin teach the apparatus of claim 22. Dahlin teaches an apparatus wherein each of the templates is printed (paragraph [0124]), however, Dahlin fails to teach where the template is printed on paper encased in transparent plastic.

Chin teaches an apparatus wherein each of said template is printed on paper encased within transparent plastic (Chin: column 3, lines 24 – 28).



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The motivation to combine the teachings of Campbell, Dahlin, and Chin is discussed in the rejection of claim 22, and incorporated herein.

With regard to claim 29 (New), Campbell, Dahlin, and Chin teach the apparatus of claim 22.

Chin teaches an apparatus wherein the set of templates is bound into a handbook (column 8, lines 8 – 14 and column 10, lines 51 – 56) where the templates enclosed in transparent plastic can be assembled in a 3 ring binder or other binding system.

The motivation to combine the teachings of Campbell, Dahlin, and Chin is discussed in the rejection of claim 22, and incorporated herein.

With regard to claim 30 (New), Campbell, Dahlin, and Chin teach the apparatus of claim 22.

Campbell teaches an apparatus wherein the apparatus further comprises one or more templates including reference data comprising normal values or value ranges for the one or more tests (Figure 5) where a user can indicate, for example, whether a patients temperature is normal based on the range of subnormal through elevated.

With regard to claim 31 (New), Campbell, Dahlin, and Chin teach the apparatus of claim 22.

Dahlin teaches an apparatus wherein the apparatus further comprises a vision chart (paragraphs [0118], [0119], and [0124]). Although Dahlin does not explicitly disclose a vision chart, it would be obvious to include a vision chart when a patient's chief complaint involves the eyes (i.e. blurred vision).

Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to include an apparatus wherein the apparatus further comprises a vision chart as taught by Dahlin, within the method of Campbell and Chin, with the motivation of providing an electronic system for documenting the results of a physical examination and outputting a plurality of medical problems based on the examination (paragraph [0019]).

***Response to Arguments***

8. Applicant's arguments filed September 1, 2009 have been fully considered but they are not persuasive. Applicant's arguments will be addressed herein below in the order in which they appear in the response filed September 1, 2009.

9. In response to the Applicant's argument, it is respectfully submitted that the Examiner has applied new prior art, new passages and new citations to the amended claims. The Examiner notes that the amended limitations were not in the previously pending claims; as such, Applicant's remarks with the regard to the application of Campbell and Blasingame are moot.

***Conclusion***

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to KRISTINE K. RAPILLO whose telephone number is (571)270-3325. The examiner can normally be reached on Monday to Thursday 6:30 am to 4 pm Eastern Time.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Luke Gilligan can be reached on 571-272-6770. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

KKR

/Robert Morgan/  
Primary Examiner, Art Unit 3626